P.7-155-93

G. R. S. IX-5]

Previous references.

~~1893~~

1892-93
~~192~~ .
(Land Rev)

File No. 165-92

Serial Nos. 1-4

Later references.

GENERAL AND REVENUE SECRETARIAT

Serial Nos. 1-4

Part B for June 1894

SUBJECT.

Appeal of Sidia minor by mother and Guardian Kenchanna of Chikkabannageri Sirsi Taluk re the Patili Office of the said village

WD 2288—4(P)5—20,000—11-6-26

Rev. O. S. No. 11 of 1891-92 on the file of the General Assistants Court Jaunpur District.

Plaintiffs	vs	Defendants
1. Bhuli Lowda		1. Narasa Lowda
2. Hanmanta Bolli resident of Chikkabanapur Lavia Taluk		2. Punja Lowda 3. Lioda

1. This is a Suit filed for the declaration of Patili Hak of Chikkabanapur including Anajre villages.

2. Previous to 1859 Ajje Lowda of Koppar caste deceased father of the 1st & 2nd plaintiffs, and three others of the same caste viz - Hanmanta Lowda deceased father of 1st deft. Narasa Lowda, Punja Lowda and Chikka Ubba Lowda, had hereditary equal right to the office of Patil under dispute.

3. It was decided on the 13th August 1859 by the then Amildar Aya Pille in Rev. regular Suit of 1858 that Hanje Lowdana Chikkiere Lowda and Kare Lowdana Lioda Lowda of Kunchikar caste and 1st & 2nd plaintiffs in the suit were half Hereditary to the office of Patil under dispute and Ajje Lowda father of the plaintiffs in the present Suit and three

Others referred to in para 2 were the
Respondents of the other half and that both
Respondents should conduct the duties.

4. Though it was thus decided neither
one of the Kumaliyars, plaintiffs of 1858
nor their heirs have enjoyed the fruits
of the decision for the last 52 years but
were simply sleeping upon their right.

5. Ajjeyorda father of the plaintiffs in
the present Suit & one of the 4 defendants
in the Suit of 1858, solely conducted
the duties of the office as the sole respondent
for the whole office.

6. In the Varalabati register prepared
in 1865 in accordance with the circular
order of Hon. Bowring the late Chief Court.
the names of two Kumaliyars Hengi Boudana
Chikka Karr Gowda and Siddegowda 1st
and 2nd plaintiffs, and those of the four
Respondents (Excepting Ohegowda) viz. Ajjegowda,
father of the plaintiffs in the present Suit,
Dengi Gowda and Karegowda the 1st defts
in the present Suit in place of his father
Hammegowda, all defts in the Suit of
1858, were entered as Hakdars. It
was arranged that Ajjegowda and Siddegowda
should both perform the duties. But
Ajjegowda father of the plaintiffs solely
conducted the duties till his death
and the Half of the disputed Patel was
solely in his possession.

7. Ajjegowda father of the plaintiffs

died in 1865, when his sons the 1st & 2nd plaintiffs in the present suit and Bleeme Lowda their elder brother were living - as Bleeme Lowda was a minor at the time Parvathi wife of deceased Ellé Lowda requested that his (Bleeme Lowda) name should be registered for the office and that Narse Lowda the 1st defendant should conduct the duties till he became fit. The then amildar submitted Ittelle No. 471 of 21 Sept 1865 to the Dy. Commr. Chitaldrug stating that her prayer was worthy of being granted. The Dy. Commr. agreed thereon No. 355 of 27th Feby. 1866 sanctioning the recommendation. It was given Effect to accordingly. 8. The 1st defdt. Narse Lowda who was conducting the Patel's duties as guardian of the said Bleeme Lowda in accordance with the Dy. Commrs. Hukum No. 355 not only submitted a Razinama of 26 May 77 but also a statement of 30 - May 1877 resigning the office in favor of Chikkaranje Lowda son of the 3rd defdt. on the ground of his being incapable of conducting the duties. The 2nd defdt. Ranje Lowda father of the 1st defdt. also furnished a statement to the above effect. On the 21 July 1877 the Amildar submitted Ittelle No. 122 to the Asst. Commr Chikkanaikanhalli Sub Division requesting sanction to comply with their request. The Sub Division Asst. Commr. did not approve of the Amildars recommendation and directed in his

Huckum no. 136 of 26 Augst. 1877 that as it was understood that there were some other Hissedars for the office of Patel they should be Examined and reported.

9. The Amildar issued a notice on the 9th September 77 fixing the date of hearing on the 18th idem -

10. The notice was served on Bheemsowda, the Elder brother of the plaintiffs in this suit, on the 26th Septr. 77 i.e. Eight days after the date fixed for hearing

11. In the petition of 24 Septr. 77 submitted by Bheemsowda, who was obliged to absent himself for hearing, to the address of the Dy. Collr. he has plainly argued, that, he was the Registeredar, that he was fit to conduct the duties, that orders had been issued ~~that~~ appointing Narsowda to conduct the duties as his Guardian during his minority and that, in the face of this fact he had no business to resign the office in favor of Chikkarumsowda.

12. This petition was forwarded to the Amildar for report on the 1st October 77.

13. The Amildar Submitted his report no. 211 of 22 Octr. 77 to the Subdivision officer explaining the purport of the Talukar petition of Bheemsowda father of the plaintiffs and ~~stating~~ regretting that he was not well up in writing, permission might be granted ~~to~~ Collection and other work on probation from Huncheppa Chikkarumsowda to the office 3rd deft. in accordance with the wishes of late Hissedar Narsowda -

14. The Sub Division officer issued Kutkum No. 190 of 14 Nov. 77 sanctioning the recommendation of the amildar to appoint Chikkaranje Gowda patel of the 3rd defts to look after the current duties and directing Lubrunjain for orders a list of Establishment

14½ Chikkaranje Gowda patel of the 3rd defts only conducts the current duties in pursuance of the above order, but his name was not registered. This fact is evident from the petition submitted by the 1st & 2d defts on the 8th June 1879, which purports as follows.

On our presenting the Kazinamas and giving statements that work should be taken from Chikkaranje Gowda by registering his name the matter was submitted to Huzur. Thereupon Kutki was issued in the said Chikkaranje Gowdas name directing that he should discharge the Patels duties till further orders were issued. Even now we have no objection to Chikkaranje Gowda work being taken from Chikkaranje Gowda by having his name registered as stated in our kazinamas statements and also this being confirmed in the office. We beg that he may be appointed as Patel as requested above.

Chikkaranje Gowdas petition of the same date is also of the same purport.

15. The last Registrar Bheemappa Elder brother of the plaintiffs died before

between 24 Septr. 1877 and 24 January 1879.
On the 24th January 79 the 1st plaintiff
this first and brother of the deceased Rheme
powda submitted a petition to the Amildar
urging the same Takoram his deceased
brother had put forth.
16. The Amildar as previously promised
having investigated the objections Takoram
submitted on the 2nd Octr. 79 his report No 232.
to the following effect.
Hulikunti Siddepowda and others. Kulk
Kulkedars of the office of Patel. live at a dis-
-tance of 3 miles from the village. They
do not do the work by residing in the Village.
Registered Rheme powda is dead. The Com-
-plainant Bhuta is his younger brother.
He is not fit to discharge the work. Lauchin
is requested to take work as Sumasta from
the present acting man Chikkarampowda
of Ramanahalli until he or his brother
becomes fit to discharge the duty. If
so Sanctioned the Talkoor will be conferred
of his Kulk and Post duties would be carried
out without any complaint.
17. On the 30th September 1879 the then
Dy. Comr. Hr. Madhavarow having gone
through all the records of the case decided
that Bhuta powda son of Ajjepowda
was the rightful Claimant to the office
of Patel and directed the prosecution
of the parties during Jamabandi
to Enquire and dispose of the question
of Competency.—

18 on 28th March 1880, that is, during the Pukka Khotji - settlement, the then Deputy Commissioner confirmed the Patel on Chikka Ranje Gowda, father of the third Defendant, thinking that he had a better claim for the Office

19. As Chikka Ranje Gowda, father of the 3rd Defendant died on 23rd April 1884, a dispute again arose. During the Pukka Khotji settlement, ~~the accounts~~ ~~department~~ the village of Ramanahalli was attached to Chikkabanagere as Mouje, by the Survey Department. On the complaint of Hale Gowda, Patel Ramanahalli, the then Deputy Commissioner - Mr. Krishnamurthi Row passed order No. 169 & 4th April

directing Hale Sowda to hold the Patelki of Ramanahalli which was in the enjoyment of Chikka Ranga Sowda, and this order was accordingly brought into ~~effect~~ force.

20 In 1884, Kenchamma wife of the deceased Chikka Rangagowda, desired the office to be conferred on her minor son Sidda, the 3rd Defendant, but Boote Sowda, Plaintiff, also claimed the office as Kuckdar.

The Amildar of Sira Taluk submitted his report No. 39 dated 15th April 1884 stating the office should be registered in the name of the 1st Plaintiff Boote Sowda

21. On 23rd April 1884, the then Deputy Commissioner issued order No 57 directing that the name of minor Sidda, 3rd Defendant son of the deceased should be registered as Patel ~~deceased~~

as the case had already been decided in favour of Cheetha Rangefonda and that till he was fit for the work the duties of the office ~~could be~~ might be allowed to be discharged by his uncle Halappa.

22. In the present regular suit filed on 9th February 1891, the Plffs pray for a decree declaring that they are the haikdars & hold the Patels, that their names should be registered as Patels and that one of them might be allowed to perform the functions of the office.

23 The 1st Defendant, Narasefonda admits the allegations of the plaint. He denies the execution of the Rajnama in favour of the 3rd Defendants father Cheetha Rangfonda. The 2nd Defendant states that the allegations of the plaint are false, and that he and his father, 1st Opp. did execute the Rajnama, and that according to its terms, the right

rights to the office belonged to the
3rd Defendants' father. The 3rd
Defendants' guardian, Halle Sowda,
in support of the 3rd Defendant,
has filed the document, as technical evidence
has filed the document, executed
on 9th October 1858, by Hanume
Sowda, father of the 1st Defendant,
and Kenge Sowda, in favour of
the ancestors of Chikka Rayer Sowda
~~family~~ for half the Pahelu.
This has been signed by Aiffe Sowda
father of the Plffs. The witnesses
attesting the document are all
dead. The statement made
by Malle Sowda, one of the executors,
regarding the document is not
true. There is no suspicion regarding the genuineness
the document. If the document
were true, the executors of it, viz
Hanume Sowda, Kenge Sowda,
and Aiffe Sowda, who were defendants
in a regular suit filed against
them by Hulekunte Kunchyas
in the year 1858, would not
have

would not have admitted the plaint and they would have informed the same.

24. It is evident from the records that 3rd Defendants father, Chikka Rauje Gowda, Chuffarth the aid of the 1st and 2nd Defendants, got the hak for the office

25 The Rajinama does not strengthen the case of the 3rd Defe. even admitting that it was executed by the 1st & 2nd Defendants in favour of the 3rd Defts' father Chikka Rauje Gowda; because, 1st Defendant was only a gumasta of Obleese Gowda, elder brother of the Plaintiffs and not a registered hakdar; and so he had no authority to alienate the hak. He has concealed the fact that he was only a gumasta both in his Rajinama and deposition This shows his deceitful nature

contrary to the above order,
are ~~deceptive~~ fraudulent.
The report ~~of the~~ submitted
by the then Taluk authorities,
without considering the existing
~~the~~ order, is to be ~~consi~~ stated
defective. It is clear that during
the time of Pakka Photoji —
settlement, the ~~decision~~ order
passed in 1866, & the decision
made by Mr Madhava Rao
in favour of the 1st Plaintiffs
were not brought to the notice
of the then Deputy Commissioner.
If ~~the~~ the existence of
these records had been brought to
his notice, he would have mentioned
in his order. It is therefore
contended that the Inam belongs
to Bheemsorda should
follow his owners.

27. The Defendants' Pleader
Mr Ramadappa pleads that
the Case is barred by the Law
of Limitation as the period

between the date on which the
Plaint was filed and the date
on which Chikka Rauze Gowda
father of the 3rd Defendant
was nominated to the Office
is since 14th November 1876.
is above 12 years but the Pleader
of the Plff argues that the plaint
is within time

28 ~~An petition was presented by~~
addressed a petition to the District
Rauze Gowda, ~~filed~~ on 8th
June 1879, filed with the records,
stating that the order passed by
the Sub-Division Officer on 14th
Nov 1877 does not alter the
name of Obanna Gowda, brother of the Plff.
was registered, but states that
the work should be taken from the
present from Chikka Rauze Gowda
father of the 3rd Defs and that
a final report should be
submitted after examining
the Hissadars and their Claims;
and that the office should

be registered in his name and the work taken from him.

On the 30th of September 1879, Mr. Madhavarao, on perusal of the reports ~~[illegible]~~ ordered that it was lawful that the Rao of Bhavnagar should go to the Defendant. As during the Pakka Bhatgi settlement of March 1880, the above order was changed, reckoning the period since that date, the plaint is within 12 years and so in time. If the order no 190 dated 7/1877 was in favour of the 3rd Defendant were final, the Suit would have been barred by Limitation Act as argued by the Defendants' Pleader. It may be considered, that as the 3rd Defd: was looking after the work during the minority of Bhavnagar, the 3rd Defd was appointed as Gumasta

29. On these grounds I am of opinion that the plaintiff has been established & there is no objection to the 1st Defendant being entitled to 1/8 share in the office in accordance with the decision of the Dalrik & Court of 1858. It is in conformity with the justice & conformity the law to that extent on the 3rd Defendant.

30 Hence it is decided that the 1st Plff's name should be registered in place of Bhima Jorda who was the Registrar at the Pakka Pakhja Settlement and that during the minority of the 3rd Defendant-Bhoote Jorda, the 1st Plff himself should conduct the duties of the office of Patel in dispute and enjoy the Inams and that after the 3rd Defl: attains his majority should conduct the duties once in 8 years

by turn and enjoy the free
mirás

(Sd) V Ramachandra
24 Jan 1893 General Asst Com

Translation of Turkish
Kaza map. of ~~Kolar~~
Genl. asst. Commr
in O.S No 11
91-92

A. S. No. 15
93-94

Appellants	Respondents
Sidda — minor	1 Bobla
mother Kenchamma - guardian	2. Hanumanta
Residents of Chicka-Banapur - Hulikunti	Sons of Ajje Gowda
Hobli - Sira Taluk	of the same Village.

Against the decision of the Dy. Commissioner Tumkur District in Rev. Appeal case No. 13 of 1892-93 in re the Patel Office of Chicka Banapur Village.

Two families viz. Goppar and Koonchitigers were the claimants to the office of Patel of Chicka Banapur and its Dakle Village of Settihondana-halli

Owing to some misunderstanding between them, Hulikunti Chicka Kare Gowda Son of Heree Gowda, and Sidde Gowda Son of Kare Gowda filed a Suit in the Amildar's Court in 1858 against Kenle Gowda Son of Obli Gowda, Hanume Gowda, Ajje Gowda and Chicka Obli Gowda of Goppar family of Chicka Banapur, vide Genealogical table attached, for the recovery of their claim to the office of Patel of the above Village - the Amildar on perusal of the documents filed by the Plaintiffs and in accordance with the custom decided that the Plaintiffs were entitled

the back to the above office. Accordingly the above men continued to perform the office the duties regarded with

In 1865 the Amildar seeing that this arrangement would give occasion to great confusion settled that out of these two men viz. Oppar Appesowda & Hulikunte Siddesowda should perform the duties and enjoy the Emoluments thereof in equal shares.

Appesowda died about the same year leaving behind him three minor sons and a widow. Thereupon the Amildar having Enquired the widow and the Hiredars recommended on 21 September 65, in compliance with their request that Bhimesowda Eldest son of the deceased be reinstated for the office and his brother Narsesowda be appointed as Sunnatta to perform the duties during his minority. The Dy. Commissioner accorded Sanction to this on 7th February 1866 - Vide Circular Dy. Comrs. Letter 353.

Narsesowda continued in office till 18th Feby. 76 when he applied to the Amildar that he may be permitted to resign the office in favor of Chicka Ranga Sowda, Halkar to the office of Potel of Kanaura halli since attached to Chicka Baungere during Survey settlement On the 26th May 1877 he again applied to the Amildar about the matter. The Amildar having enquired into & his son Ranga Sowda on the 30th Oct. & on the 26th September in course of which the former stated that Bhimesowda went and settled himself at Paragoda, that

another Hipedar Lidoe Gowda was dead leaving behind him a son aged 12 years who was also at Hirdasapura, that there were no heirs, besides them and that under the circumstances Chikka Kempe Gowda might be appointed to the office ~~their heirs and~~ which they would willingly resign in his favor - requested the Chikka-Naikan Halli Sub Division officer on the 21 July 77 that they request might be complied with.

This was not sanctioned as it was understood that there were other Hipedars for the office and the Amildar was directed on 26 idem to Enquire them & report. Notices were issued by the Amildar on the 9th Septr. 77 for the appearance of the parties on the 18 idem - Meanwhile Bhime-Gowda the Resistedar on whom the notice was served on the 26th Submitted a petition to the 27th protesting against the proposal of Hire Gowda resigning the office in favor of Chikka Kempe Gowda - This was referred to the Amildar in October 77.

Thereupon the Amildar on 22 October 77 requested that as Bhime Gowda was incompetent to take up office, he may be permitted to take work from Chikka Kempe Gowda temporarily till all the Hipedars were Enquired about the matter - On the 4th November 77 the Sub Division officer in Sanctioning the proposal ordered the Submission of the List of Establishment for orders

Bhime Gowda died in 1877. The Hipedars

Hulikunti Chikka Karisowda and Dodda Karisowda complained on 29th October & 6th December 77 to the Dy. Commissioner and the Sub Division Officer respectively about the appointment of a Shanbogue to the office in spite of so many Existing Hiredars fit to take up appointment. This was referred to the Amildar on 18th December for report. After the death of Chikka Karisowda his brother Sanna Isoda also submitted a petition. On the 26th January and August 79 Bodesowda brother of the deceased Bheemsowda applied to the Amildar and the Dy. Commissioner for his nomination to the office of Potel in his brother's stead. On the 8th June 79 Chickkakarisowda Isoda and Karisowda both submitted petitions to the Dy. Commissioner. The former requesting that his name may be registered for the half share of the office recognised in his favor as well as his Confirmation in the office and the latter seconding the former request all these were forwarded to the Amildar for report.

The Amildar after Enquiring, Karisowda, Gange Sowda, Bodesowda, Hanumanta and other Hiredars recommended on 2d September 79 that as Bodesowda, the proper Claimant to the office was not fit to take up duties of the office, Chickka Kempe Sowda who was officiating for the may be appointed till the Bodesowda or his brother became fit to assume the office.

On the 30th September 79 the Dy. Commissioner seeing that Bodesowda was the proper claimant ordered the Amildar to produce him and the

papers connected with the case before during Jamabandi for orders.

On the 24th March 80 during the Settlement of Pattha Police Mr. Chuchaori Iyer the then Dy. Commissioner after Enquiring the parties and going through the records and Calculating upon the Assessable Basis of the Villages viz. Kasaba Bangere, Settihosahalli and Ramanahalli conceded 1/16 half to Chikka Rangegowda, the Sole Patteadar to Ramanahalli, 3/8 to Koppar family and 3/8 to the heirs of Chikka Karegowda, Siddegowda & their family in the Entire annal Jamabandi Village - Died as Karegowda & his Son resigned their half in favor of Chikkarangegowda his whole half was decided to amount to 1/4 + 3/16 or 7/16. Thus making Karegowda's Son and Kodegowda to have 6/16 and Bootegowda 3/16; and confirmed Chikkarangegowda in the appointment.

Thereupon Halegowda, who was the Patel of Nagenahalli Village at the time, having contested about it's since from 1881, was at last restored to his office by the then Dy. Commissioner Mr. Krishna Murthi on 4th March 83

On the 24th January 81 Bootegowda applied for a Copy of the Patel Register of Chikka Bangere, also for a Copy of

the order passed during Pakka Poliepi. They were not granted. He submitted a petition to the Dewan on 28th August 81 to which an Endorsement dated 25th January 82 was granted directing him to apply to the Dy. Commissioner and obtain his orders.

On the 23rd February 82 and on 17th April 83 he again requested the Dy. Commissioner to nominate him to the office of Pdtl. But he refused to interfere with the order of the previous Dy. Commissioner who after fully Enquiring into the matter confirmed Chicka Kumaraswamy in the office.

On the 19th January 84 the Shekdar reported the death of Chicka Kumaraswamy. Thereupon the Amildar directed him on 29 January 84 to order Kenchamma, his widow and her Son, deceased's brother, Nanjaraswamy, Boodi Gowda & other claimants to appear before him

On the 26th January 84 the Villagers of Chicka Banapre petitioned to Talak to appoint Boodi Gowda of Kopper family to the office of Patel. The Shekdar was directed on 31 January to order the above men to appear before him. Boodi Gowda also submitted a petition to the Dy. Commissioner which was referred to the Amildar on the 3rd February 84 directing him at the same time to report, whether the Patel was dead, who the petitioner was, whether he was a claimant, what was her Krishna Murti's order and how it would help him

On the 5th April 84 the Villagers were Examined - some wanted the Patelship to be conferred on Boodisowda some on either Boodisowda or on the heir of the deceased. On the 15th April 84 the Amildar Submitted his report bearing on the above points and suggesting that Boodisowda seemed to be a proper claimant. On the 23d idem the Dy. Commissioner ordered to prefix the name of Siddu Son of the deceased for the office of Patel as requested by the deceased's widow and to appoint Kalisowda brother of the deceased as Guardian to perform the duties during his minority.

Thereupon Boodisowda and his brother Hanumanta filed on the 9th January 91 a Regular Suit in the Dy. Commissioners Court against Narasowda, Lingsowda and Siddu Son of Chick Lingsowda - as guardian Kenchamma residing at Ramanahalli for the recovery of their right to the Office of Patel

On the 9th February 91 the Dy. Commissioner referred it to the Amildar Sira Taluk for Enquiry and Submission of Proceedings with a report for orders.

The Amildar after issuing notices to the parties & on their appearance before him framed on the 22d April 93 the following issues.

1. Whether Kalisowdanahalli and Ramanahalli were added as Inams to Chikka Basapa

2. Who was the original holder of the office of Potel of Mongi Chickka Banapere - what evidence is there to show the genuineness of the plaint filed by the plaintiffs.

3. Why and when were the names of the Plaintiffs not registered for the office

4. What is the Extent of the claim of the 1st & 2d Defendants to these Villages - How would the Sale of their claim bind the Plaintiffs

5. On what claim was the 3d Defendant Liddas father was registered to the office

6. Whether Separate Potels are appointed to Each of the Magni Villages.

Both the Plaintiffs and the defendants filed documents in proof of their respective claims - Vide accompanying list:

The parties and their witnesses were Examined by their respective pleaders.

On the 21 July 91 the Amildar reported that in perusal of the records it is Evident that from time immemorial Settipondanahalli was attached to Chickkabanapere. Ramanahalli was attached to the above Village during the Survey Settlement - there was never a Separate Potel appointed to Settipondanahalli - Chickkabanapore Potel himself used to look after the work - the 3d defendants ancestors were the claimants for the office of Potel of Ramanhalli. Chickkamuppanna held the office till 83 - Subsequently his Nephew Kalappa was appointed - Vide dispozes of the 1st and 6th issues.

From the documents marked A. C. D

Plaintiffs' father Ajjeswara, 1st defendant Narseswara and his coshares were entitled to half share in the office of Patel of Chickabanavara and the other half belonged to Hulikunte Chikka Siddeswara & others (vide amildars decision of 1859). Five men of both families were performing the duties of Patel - But as this arrangement gave occasion to confusion it was arranged in 64-65 that Siddeswara representing Hulikunte and Ajjeswara representing Koppar family should perform the office - after the death of Ajjeswara - Obleswara was appointed and during his minority Narseswara to acted as Manager & Subsequently he resigned it in favor of Chikkabasappa Swara who was ultimately confirmed in the appointment in 1880 - Vide dis poses of the 2d. 3d 24th issues.

As regards the 5th issue it is clear that the 3d. defendants father was appointed by the order of the Dy. Commissioner of 24 March 80

The Amildar submitted these proceedings to the Dy. Commissioner on 31 July 91 who on the 3 August 91 "to wait till Rajkaryaclarks fets his powers" and subsequently referred it on the 9th September 91 to the Treasury Officer for disposal.

Rev. Ramachandra Row after having through the records, taking additional Evidence & calling for the original papers referred to by the Amildar pronounced on the 24 January 92 his judgment in the Rev. Orgl. Suit No. 11 to the effect that he could not believe the Karar

dated 9th October 58 alleged to have been Executed by Rammeswara & Kempe Gowda granting the half Share to the ancestors of the 3rd deft; for the Executors were all dead and that it would have been preferred to in the Suit filed by Pulicanti Kunchiyars in 1858. that the 3rd defts. father for the office in a manly thorough the fraudulent Conduct and help of the 1st & 2nd defendants which does not in any way strengthen his claim, that if the decision of 1866 in favor of the Plaintiff & Subsequently Ner. Inadhara Rows order of 30th Septr. 79 had been brought to the notice of the Dy. Commissioner during Pattka Politi of 1880 he would have preferred them in his decision - Consequently the Plaintiffs are entitled to the full claim of Rammeswara; that the period of limitation for the Suit Commences from 24th March 80 and not from 4th November 1877 when the 3rd defts father was appointed to officiate - and that Consequently the Suit filed by the Plaintiffs is upheld and the ½ share due to 1st deft: according to decision of 1870 is conferred on the 3rd deft:

Accordingly it was decreed that the name of the 1st Plaintiff be registered in place of Rammeswara the Registered during Pattka Settlement, that he should solely perform the duties and Enjoy the Emoluments of the office during the minority of the 3rd deft. and that, after the latter attains his majority, he should perform the duties & Enjoy the Emoluments

the Office more in 8 years.

On the 24th February 93 the 3rd defendant filed an appeal to the Dy. Commissioner against the above decision on the following grounds

1. That the Lower Court has not only not decided what portion of land the Respondents have to the Katikiro's Estate, but omitted to give attention to Busulu Register 1905 and to the decision of the Dy. Commissioner during Kakka Police of 1880 conferring 3/16 share on the Respondents.

2. That it is wrong for the Lower Court to have conceded only 2/16 share to the appellant instead of 7/16 as decided during Kakka Police of 1880

3. That the Suit of the Respondents was barred as they having been fully aware of the appointment of the appellant's father, during Kakka Police, to the Office of Bôti, failed to have the above order cancelled at the proper time.

4. That the Suit was barred by limitation as the Respondents lost possession of land claim to the Office in 1877.

The Dy. Commissioner posted the hearing on the 4th March 93. The opposite parties were summoned and the records were called for. And the case, at the appellant's pleader's request, was adjourned to the 23rd when the Respondents filed an objection Statement

under Sec. 561 of the C.P.C. then the Dy. Commissioner having heard the parties and going through the records decided that in affirming the decree of the lower court in favor of the respondents reversed the latter portion viz. that the 3rd. deft. (appellant) should be allowed to perform the office once in 8 years after he attained his majority. Vide Dy. Comrs. decision in Rev. appeal case no. 13 of 1892-93

Against this order the appellant has appealed on the following grounds.

(1) That the claim of the respons for half the share in the disputed office of Potel is barred by limitation

(2) That the appellant and his father have been performing the duties and enjoying the emoluments of the office for the last 20 years or thereabouts.

(3) That the appellant's father did not perform the duties of the office as a servant to Bhimeshwar or to the respondents as observed in the judgments of the lower court.

(4) That according to the decision of the Dy. Commissioner of 26th March 80 during Patka Potship the appellant's father became entitled to 7/16 share in the office

5. That as the respondents failed to have the above order cancelled in proper time they should be bound by that decision

(6) That the Dy. Commissioner arrived at the above decision after investigating all the circumstances and previous references connected with the case.

(7) That it would be evident from the Kabuliyat executed by Appellant (the genuineness of which the lower Court doubts) and from the proofs adduced in the case that the Appellant and his prayatis at Kamana Halli are half bissedars of the Office

8. That the Dy. Commissioner was wrong in having reversed that portion of the Assistant Commissioner's decision viz. that the appellant was entitled to ½ share of the Office of Patel, though the ~~appellan~~ Respondents did not appeal against it.

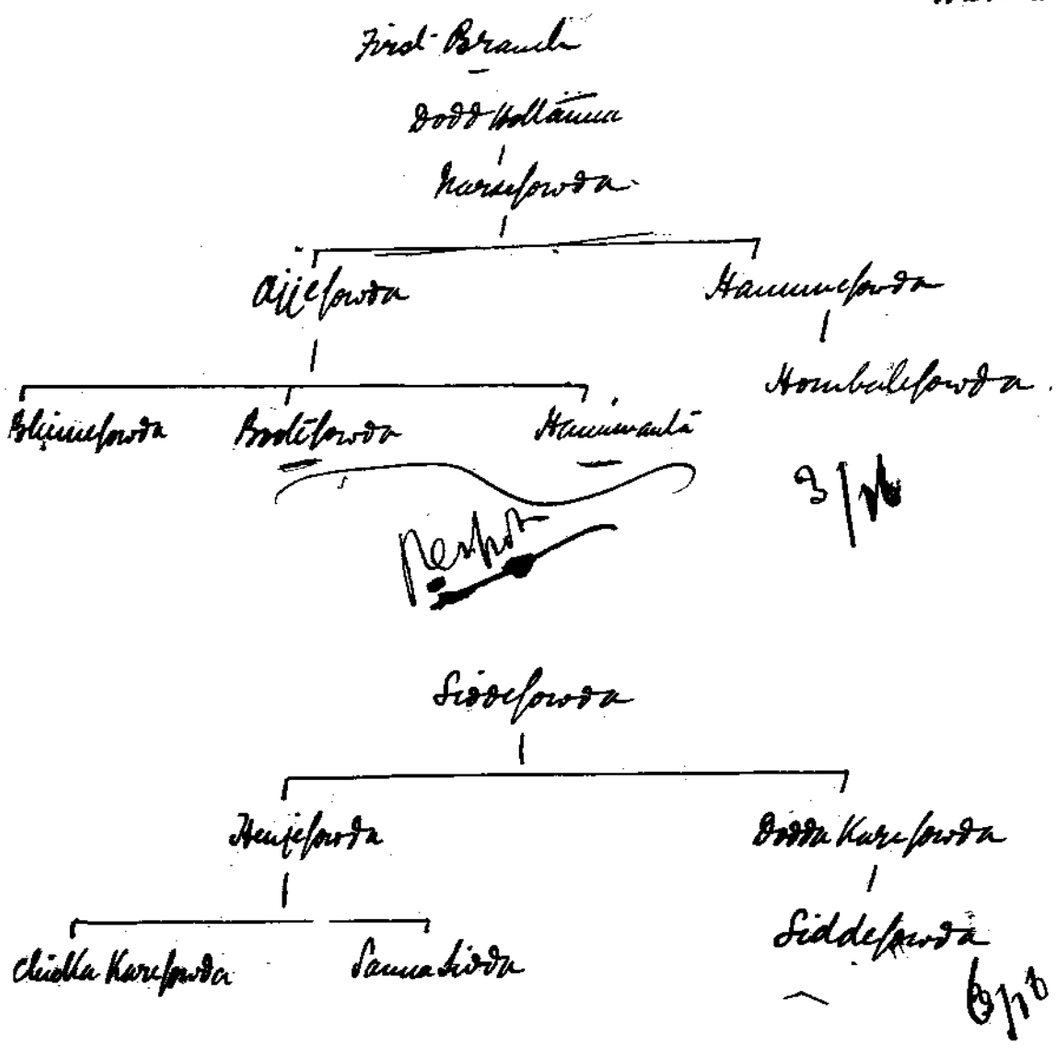
Posted 6 26-4-94 for hearing.
Notices to be issued to the
Appellant & Respondents —

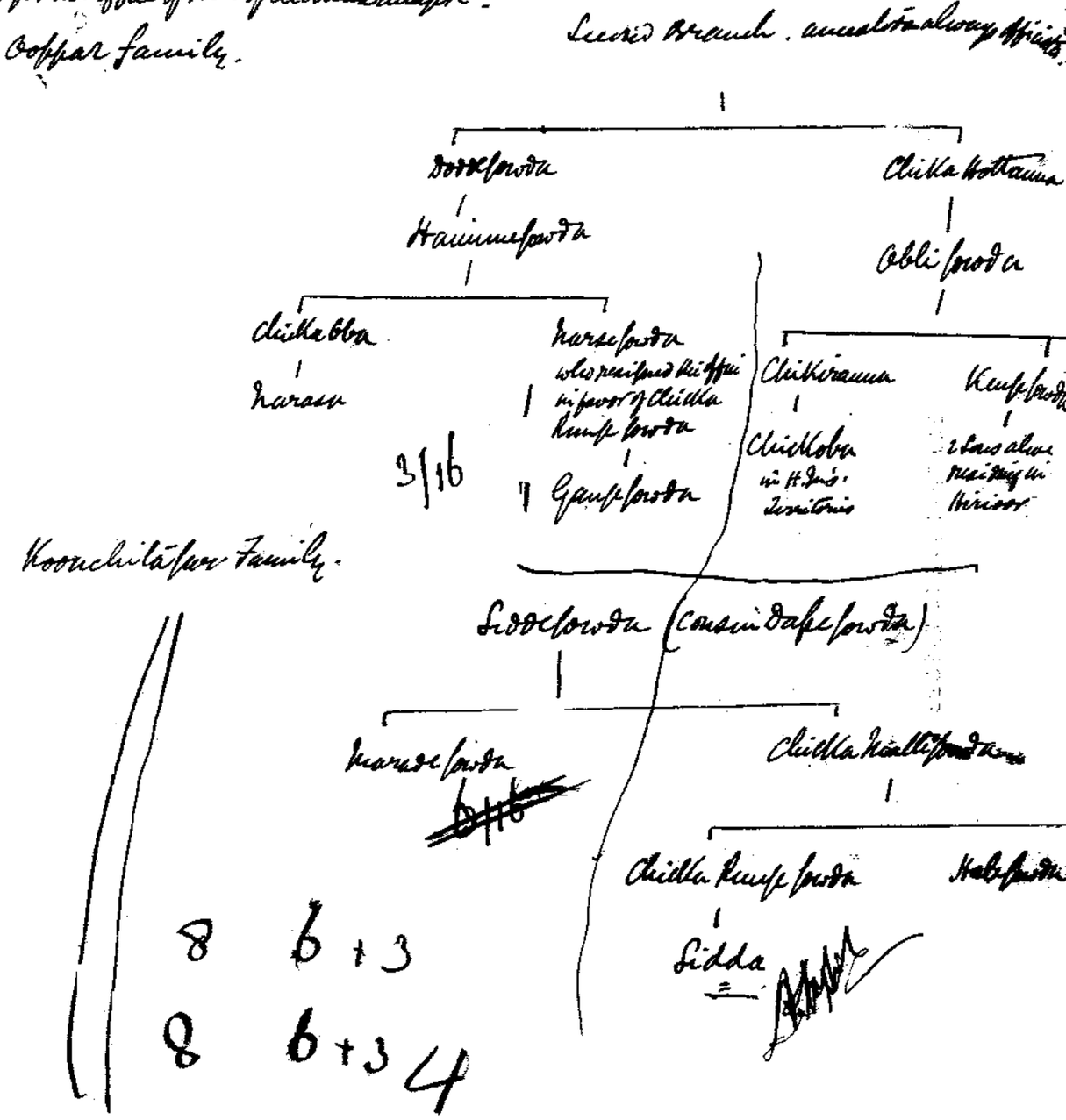
Adjourned to 17th May 94.

Case

Hakkaris for the office of Lotet of Chiddalsamapse.

Copper family.





Documents filed by the Plaintiffs before the Commissioner

a. Copy of Tolil Register of Chicka Banajere for 64-65.
b. Do - Sirsi Taluk Amildar's report no. 288 of 4-9-65 to the Dy. Commr. Chitaldroog
c. Do - Chitaldroog Dy. Comm's. Hukkum no 355 of 7-2-66 to Sirsi Amildar
d. Do - Sirsi Amildar's no. 232 of 1-9-79 to Dy. Commr. Tumkur
e. Do - do - no. 11 of 8-4-83 to - do -
f. Do - no. 30 - do -
g. Endorsement no. 1654 from to Basappa Boodisowda by the Amildar
h. Copy of Hukkum no. 169 of 4-3-83 from the Dy. Commr. Tumkur to the Amildar Sira

By the Defendants

1. Dy. Comm's. Endorsement no. 4 on Chicka Banajere Kenchamma's Petn
2. Copy of the order passed by the then Dy. Commr. Sheshadri Iyer regarding the Tolil Chits
3. Do - Copper Shasanam of Chicka Banajere
alleged to be written during the period of Sadasiva Raya of Vijaya Nagar
4. Copy of two documents of 9 Oct. 58 Executed by Kempe Gowda, Kamanagowda, Assegowda of Chicka Banajere in favour of Kamana halli Narasegowda, Nallegowda & Dyavegowda
5. Hukkum no. 187 of 18-4-67 to Banajere Narasegowda & Siddegowda
6. Copy of report Submitted by Narasegowda Tolil of Chicka Banajere to Sira Taluk of 15/2/66
7. Plain paper document of 16-5-63 Executed by Chicka Banajere Kempe Gowda & Assegowda
8. Receipt of Rudrappa Sannalasura Jedi Gowda & Saluvaru - Granted by Ajjigowda & others of Chicka Banajere to Kempe Gowda Son of Narasegowda & Nallegowda
9. Paper showing division of property of 6 Kar Pair Gowda of Vibhava Executed by Nadagowda of Chicka Banajere in favour of Kamana halli Nallegowda
10. Copy of Endorsement no. 154 of 25-2-83 granted to Ajjegowdana Boodigowda of Chicka Banajere
11. Copy of petition of August-62 Submitted by Banajere Ajjegowda & others to the Asstt. Chitaldroog Dist.

(General Serial No. 32.)

189

No. 3345

Name of Petitioner. Kenchamma-guardian and mother of Sidda. minor

Village. Chikkabanagere.

Taluk. Sira

District. Tumkur.

Date of Arri. 20. 6. 93

Date of Receipt. 20. 6. 93.

Date of Disposal.

No. of Enclosures. Eight.

ABSTRACT.

States that the order of the Genl Assistant Commr in the Revenue Appeal of the above Patelship should be Cancelled by turns, has been Cancelled by the Deputy Commissioner

Requests that the Deputy Commissioner's order may be cancelled.

23.6.

Pet 285 — Appl 2000 of 1892-93

MYSORE DEWAN'S OFFICE, 19-8-93.

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

(3)

R 165-92-2

The accompanying Petition No. 3345 M.S. 15 dated 20th June 93 received at the Dewan's Office from Siddu, minor by guardian & mother Kenchamma, of Bukkanagere, Sira Taluk appealing against the Deputy Commr's decision in Revenue Appeal case No 13 of 1892-93, in re the Patel of ~~Basavapura in the Sira Taluk~~ that village. is forwarded, together with its Eight enclosures, to the Deputy Commr Tumkur District, for submission of proceedings with a report on the facts of the case and on the points taken in the petition.

2. The petition with its enclosures should be returned

Enclosures returned in this Office for transmission

By Order,

Draft

Chief Secretary.

BANGALORE, 17 Aug 1893

20

M. G. C. P. Bangalore.—21-11-92—3,000.

1576

From the Dy Comr Sira No 1870 23-8-93

2757
8 AUG 93
P. 121

(General Serial No. 30.)

1893.94

From The Dy: Commissioner
Tumkúr District

(4)

To

The Chief Secretary to the [redacted] Govt:
of Mysore.

LR 165-92-3

Dated 23rd Augt/93.

Despatched 24th

Received

Enclosures No. 1 & Record.

General No.
No. 187.

Chief Secretary's No: 2855 of
the 17th Augt/93.

"

Submits the record
in the case of Sidda, minor
by guardian & mother
Kenchamma of the
Chikkabasagére Village
in the Sira Taluk. Returns
the Enclosure —

Peterson.
28/8

No: 187.

Tumkúr District

Deputy Commissioner's Office

Tumkúr 23rd August 1893.

(4)

To,

The Chief Secretary to the

Government of Mysore

Sir,

I have the honor to submit here-
-with the record in the case of Sidda,
(minor by guardian and mother
Kenchamma) of the Chikkabanagére
Village in the Sira Talúk as called
for in your Official Memorandum
No: 285 of the 17th August 1893.

2. The Enclosure of the Memorandum
under reply is herewith returned —

I have the honor to be,

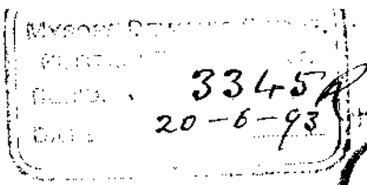
Sir,

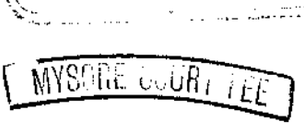
Your most obedient Servant

W Chamier

Deputy Commissioner

Tumkúr District





A.S. No 15
93-94.

Presented by
Mr. Srinivasaiengar
Executant
Petitioner
Date
20/6/93

20-6-93

ಲ್ಲಾ ಸಂಗತಿಗಳನ್ನು ಸಂಪೂರ್ಣವಾಗಿ ಬರೆದಿರುವುದಿಲ್ಲವೆಂದೂ ಅಥವಾ ಅವುಗಳಲ್ಲಿ ಯಾವುದಾದರೂ ಸುಳ್ಳು ಅಥವಾ ಅಪೂರ್ಣವಾಗಿ ಬರೆದಿರುವುದಾಗಿಯೂ ಅಥವಾ ಅವುಗಳಲ್ಲಿ ಯಾವುದಾದರೂ ಸಂಗತಿಗಳನ್ನು ಬರೆಯದೆ ಬಿಟ್ಟಿರುವುದಾಗಿಯೂ ಅಭಿಪ್ರಾಯಪಟ್ಟರೆ ಅಂಥ ಸಂಗತಿಗಳನ್ನು ಸಹ ಅವರು ಬರೆಯಬೇಕು.

6 - ಸಹಿಮಾಡಿದವರು ಅಥವಾ ಹೆಬ್ಬೆಟ್ಟಿನ ಗುರುತು ಹಾಕಿದವರು ಅಥವಾ ಅವರ ಪರವಾಗಿ ಸಹಿ

ಉದಯಗಿರಿ ಸರಕಾರಿ ಪ್ರಾಥಮಿಕ ಶಾಲೆಯ ದಾಖಲೆಗಳು

ಶಾಲಾ ಪ್ರವೇಶ ನೋಂದಣಿ ಪುಸ್ತಕ

1. 28-8-1862 ರಂದು ಚಿಕ್ಕ ಮಾಸ್ತಿಪುರದ ಶೀನಪ್ಪನವರ ಮಗ ಪುಟ್ಟಪ್ಪ ಎಂಬ ಬಾಲಕನು ಶಾಲೆಗೆ ಸೇರಿದನು. ಈತನ ತಂದೆ ಶೀನಪ್ಪನವರು ಈತನ ಜನ್ಮ ದಿನಾಂಕವನ್ನು ಸರಿಯಾಗಿ ತಿಳಿಸಲಿಲ್ಲ. ಆದ್ದರಿಂದ ಈತನ ವಯಸ್ಸನ್ನು ಅಂದಾಜಿನ ಮೇಲೆ 7 ವರ್ಷ ಎಂದು ನಮೂದಿಸಲಾಗಿದೆ.

2. ಶೀನಪ್ಪನವರು ಉದಯಗಿರಿಯಲ್ಲಿ 28-8-62 ರಿಂದ 30-6-63 ರವರೆಗೆ ಸುಮಾರು 10 ತಿಂಗಳು ಕಾಲ ಕಾರ್ಯನಿರ್ವಹಿಸಿದರು. ಈ ಅವಧಿಯಲ್ಲಿ ಒಟ್ಟು 66 ದಿನಗಳು ಶಾಲೆಗೆ ಗೈರು ಹಾಜರಾಗಿದ್ದರು.

3. 25-9-62 ರಂದು ಶೀನಪ್ಪನವರು ತಮ್ಮ ಮಗನಿಗೆ ಪುಸ್ತಕ ಮತ್ತು ಪೆನ್ಸಿಲ್ ಖರೀದಿಸಲು ಒಂದು ರೂಪಾಯಿ ಹಣ ಕೊಟ್ಟಿದ್ದರು. ಆದರೆ ಪುಟ್ಟಪ್ಪ ಆ ಹಣವನ್ನು ಖರ್ಚು ಮಾಡಿ ಪುಸ್ತಕ ಕೊಳ್ಳಲಿಲ್ಲ. ಬದಲಿಗೆ ಆ ಹಣದಲ್ಲಿ ಬೆಲ್ಲದ ಅಚ್ಚು ಕೊಂಡು ತಿಂದುಬಿಟ್ಟನು.

4. 16-5-1863 ರಂದು 3ನೇ ತರಗತಿಯ ಅತ್ಯಂತ ಸಾಮರ್ಥ್ಯವುಳ್ಳ ವಿದ್ಯಾರ್ಥಿಯಾಗಿದ್ದ ಪುಟ್ಟಪ್ಪ ಶಾಲೆಯಿಂದ ಹೊರಟುಹೋದನು. ಕೆಲವು ತಿಂಗಳ ನಂತರ ಈತನು ಮೈಸೂರಿನ ಸರಕಾರಿ ಪ್ರೌಢಶಾಲೆಯಲ್ಲಿ ಸೇರಿಕೊಂಡನೆಂದು ತಿಳಿದುಬಂದಿದೆ.

ಶಾಲಾ ಪ್ರವೇಶ ನೋಂದಣಿ ಪುಸ್ತಕ — ಮುಂದುವರಿದ ಭಾಗ

1. ಈ ಪುಸ್ತಕವನ್ನು ಪ್ರತಿ ವರ್ಷದ ಆರಂಭದಲ್ಲಿ ಹೊಸದಾಗಿ ತೆರೆಯಲಾಗುವುದು.

2. 4-10-1863 ರಂದು 3ನೇ ತರಗತಿಯ ವಿದ್ಯಾರ್ಥಿಯೊಬ್ಬನು ಶಾಲೆಯಿಂದ ಹೊರಟುಹೋದನು.

3. [illegible] ಅಳಿಸಿ ಹಾಕಲಾಗಿದೆ.

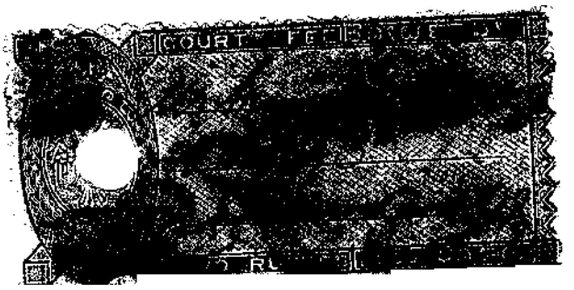
4. ಪ್ರತಿ ವರ್ಷದ ಕೊನೆಯಲ್ಲಿ ಹಾಜರಿ ಪುಸ್ತಕವನ್ನು ಪರಿಶೀಲಿಸಲಾಗುವುದು.

5. [illegible] (ಅಂದಾಜು 28)

6. ಈ ಪುಸ್ತಕದಲ್ಲಿ ಕೆಂಪು ಶಾಯಿಯಲ್ಲಿ ಮಾಡಿರುವ ತಿದ್ದುಪಡಿಗಳು ಶಾಲಾ ಮುಖ್ಯೋಪಾಧ್ಯಾಯರಿಂದ ಮಾಡಲ್ಪಟ್ಟಿವೆ.

7. [illegible] ಪ್ರಕಾರ ಪ್ರತಿ ವರ್ಷ ಮಾರ್ಚ್ 31ಕ್ಕೆ ಮುಕ್ತಾಯಗೊಳಿಸಲಾಗುವುದು.

ಸಹಿ/-
ಶಾಲಾ ಮುಖ್ಯೋಪಾಧ್ಯಾಯರು
ಉದಯಗಿರಿ (ಶಾ.ಸಂ. 187)



ಕೋರ್ಟಿಗೆ.

ಸನ್ 1893 ನೇ ಇಸವಿ ———— ನಂಬರ್

ವಾದಿ.

ಪ್ರತಿವಾದಿ.

ಮೇಸ್ಟರ್- ಅಡ್ವೊಕೇಟ್-ಜನರಲ್, ಶ್ರೀನಿವಾಸಅಯ್ಯಂಗಾರ್ರವರಿಗೆ.

ಬರೆಸಿ ಕೊಟ್ಟ ವಕಾಲತ್‌ನಾಮೆ.

ಈ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ನನ್ನ ಪರವಾಗಿ ಕೋರ್ಟಿಗೆಹಾಜರಾಗಿ ಅರ್ಜಿವಗೈರೆ ಕೊಟ್ಟು,ವಿವಾದಿಸಿ ಫೈನಲ್ ಹೊಂದಿಕ್ಕ ಬಗ್ಯ್ಯ, ಮತ್ತು ನನಿಗೆ ಸಲ್ಲ ತಕ್ಕಡಿಕರಿ ಮೊಬಲಗು ದಸ್ತೈಜು ವಗೈರೆ ತೆಗದುಕೊಂಡು ರಶೀದಿಕೊಡುವದಕ್ಕೂ ಸಹಾ ತಮಗೆ ಅಧಿಕಾರ ಕೊಟ್ಟಿದ್ದೇನೆ, ಆದ್ದರಿಂದ ತಾನು ನನಿಗೋಸ್ಕರ ಕೋರ್ಟಿಗೆ ಹಾಜರಾಗಿ ನಡಿಸುವ ಎಲ್ಲಾ ಕೆಲಸಗಳನ್ನು ನಾನು ಖುದ್ದು ಇದ್ದು ನಡಿಸಿದಂತೆ ಒಪ್ಪುತ್ತೇನೆ.

ತಾರೀಖು ನೇ
ಸನ್ 1893 ನೇ ಇಸವಿ

ರುಜು:

ಅಂಗೀಕರಿಸಿ ಇರುತ್ತೇನೇ.

20/6/93

ಈಮೊಕ್ತ್ಯಾರ್‌ನಾಮೆ ಕೊಟ್ಟವರು ನನಗೆ ಪರಿಚಯಸ್ಥರು ನನ್ನ ಸಮಕ್ಷಮ ಇದಕ್ಕೆ ರುಜು ಮಾಡಿಇದ್ದಾರೆ ಆದ್ದರಿಂದ ನಾನು ಸರ್‌ಟಿಫೈ ಮಾಡಿದ್ದೇನೆ.

ಬೆಂಗಳೂರು ತುಲಸೀತೋಟದಲ್ಲಿರುವ, ಪಿ - ರಾಘವಾ ಸಾಗೀಶ್ವರೀಮುದ್ರಾಕ್ಷರಶಾಲೆಯಲ್ಲಿ ಮುದ್ರಿಸಲ್ಪಟ್ಟಿತು.

LR 165-92-4

5

Appeal No 15 of 1893-94.

Appellant:

Sidda, minor by mother and guardian Kenchamma, of Chikbanagere Sira Taluk.; represented by Mr L. Srinivasiengar Advocate.

Respondents:

1. Bhiala
2. Hanuma

represented by Mr S. Narayana Row Advocate.

Decision.

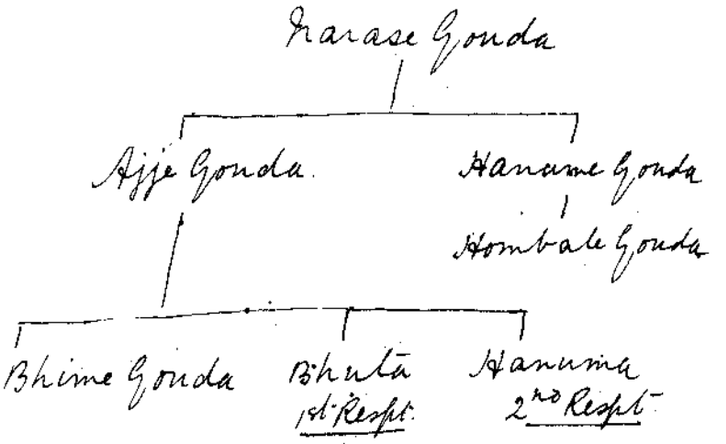
This is an appeal against the Decree of the Deputy-Commissioner adjudging the Patelé office of Chikkabanagere to Respondents.

The facts of the case which are somewhat complicated are as follows:—

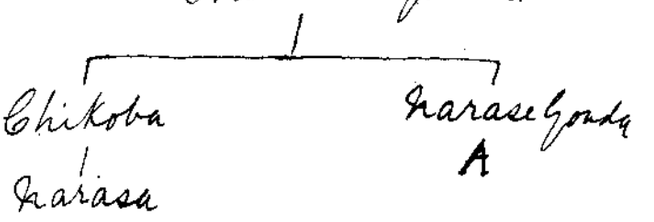
The Hak originally belonged to two families, ½ to Kunchabigar ~~Kenchabigar~~

family, and half to the Respondents' family which consisted of two branches, as noted in the margin, each of which was entitled to half of the half. The Kunchagar family having slept over their rights, the father of the Respondents, and subsequently their brother, were holding the office. In 1877, when the office stood in the name of the brother of the Respondents, Narase Gonda of the 2nd branch of the Respondents' family (A in the table of genealogy) who was acting as the gumasta of Respondents' brother alienated the office to appellants' father. Respondents objected to the alienation, but the alienee was ordered to do duties temporarily pending further orders. While matters

Branch No. 1.



Branch No. 2.



stood thus, Potagi settlement was introduced in 1880, when it so happened that Ramenhalli, the Patelic Hak of which belongs to appellant exclusively was included in the charge of Chikkabanagere, the Beriz of the two villages being as shown in the margin. The ~~Collg~~ ~~Commr~~ ~~Officer~~ (now Dewan) considered that Appellant's father had 1/4th share of his own in the charge, because Ramenhalli which unquestionably belonged to appellant had a Beriz equal to 1/4th ~~share~~ of the whole charge, that of the remaining 3/4ths, 3/16ths belonged to branch No 2 of the Respondents family, that the latter having been alienated to Appellant's father, he was in possession of 7/16 shares

Ramenhalli Rs 350
Chikkabanagere Rs 1080
Total Rs 1430.

and as he was thus in possession
of largest number of shares,
he was entitled to the office,
and accordingly gave him
the appointment.

Subsequently Ramen-
halli having been separated
from the charge and given
to appellants' ~~brother~~ uncle, Respondents
brought a suit to recover
the office from Appellant in
1890, and the Assistant Com-
missioner passed a decree
their favor, allowing, however,
1/8 share to appellant as he
thought that it was the share
of A who alienated the office
to appellants' father. How the
Assistant Commissioner considered
that ~~the~~ A had 1/8th share in
the Hak is not very clear.

Apparently, he thought that of the 1/4th share in the entire Hak which belonged to branch No2 of Respondents' family, A had half, and his brother Chikkoba had half. The Respondents however did not appeal against the decision of the Assistant Commissioner but on the appeal preferred by Appellant; Respondents took objection to the grant of even 1/8th share to appellant; and the Deputy Commissioner gave the whole Hak to Respondents on the ground that Narayanda (A in the table of genealogy) had no right to alienate the office to Appellant's father, since he was only a gumasta of the Respondents' brother.

The Appellant's Advocate contends that both the lower

erred
Courts ~~were wrong~~ in admitting
the suit, since it was not
brought within one year
after the decision of the Revenue
~~Collagi officer~~ as required
by Article 14 of the Limitation
Act; and that the ~~Deputy~~ Lower Court
~~Commissioner~~ was further
wrong in having disallowed
1/8th share to Appellant when
there was no appeal about it.
Both the contentions are
inadmissible. Article 14 of
Limitation Act does not apply
to cases of the kind under
consideration, for which a
limitation of 12 years is
clearly provided ~~in~~ in Article
124, and the Deputy Commis-
sioner had clearly right
under Section 561 of the
Civil Procedure Code, to
set aside the decision of the

Lower Court in favor of Respondents, notwithstanding the fact that they did not prefer an appeal.

It seems to Government that since none of the members of the 2nd branch of Respondents' family have brought a suit for the recovery of their share from the appellant, Respondents who belong to another branch altogether have no right to question it. Moreover, the 2nd branch of Respondents' family had clearly right to 1/4th Hak and not to 1/8th as assumed by the Assistant Commissioner.

Under all the circumstances of the case, Respondents may be said to possess 3/4th share

^ No one unfortunately took the matter up and the objection statement was filed on the date of hearing & not 7 days previously as required by the Code. But delay is of small consequence, & the DC cannot overlook it. However,

in the Hak — 1/4th of their own
and 1/2 of the Kunchatijar family,
which they apparently abandoned
in favor of branch No 1 of Respts family who
performed the duties. The
remaining 1/4th share may be
said to belong to Appellant
who acquired it by alienation, ~~adopted by the testator~~
It is true that Narase Gonda
who alienated the office was
only a gumasta of Respondents' brother
and that therefore the alienation
was improper, but the objection
cannot apply to the alienation
of his own share to which
Respondents had no right, and
those that ~~had~~ have a right
~~right~~ to it have no complaint.

Respondents being thus —
entitled to the largest number
of shares, Government have
no hesitation in confirming
the decision of the Lower Court,
with the modification that

Appellant may be registered as Hakdar of 1/4th share till any member of the 2nd branch disputes the alienation and obtains a decree in his favor. Under any circumstances, Appellant is not now in possession of 7/16th share as Ramenhalli has been separated and given to Appellant's ~~vendor~~ uncle, and the ground on which the ~~Dy Com who called it~~ Potagi ~~officer~~ gave him the appointment does not now exist. The Respondents are therefore entitled to hold the office in preference to Appellant, who is altogether a stranger to the family of the original Hakdar, and who, at the best, can only

be regarded as possessing 1/4th share of the entire Hak even supposing that the alienation made by Narasegonda was valid as against Respondents.

24/6/94.

By Order

Redraft
Sd

28/6

Chief Secretary.

R. 2327 & 25-6-94.
P.T.155-93.) 4/7.

Copy to the Deputy Commissioner with the records received with his R.O. 1878 23rd Aug, ult. /93

Redraft
P.T./28/6

Put in abstract
P.T./27/7 attached